IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

CRL.A.No. 661 of 2002()

CC.254/1999 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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APPELLANT: APPELLANT/COMPALINANT:

KANIYATTU CHALIL NARAYANAN,
63 YEARS,S/O.PARU,KAYARALAM AMSOM,
KANDAKAL DESOM, (P.O.)KANDAKAL, MAYYIL,
KANNUR DISTRICT.

BY ADV. SRI.SARVOTHAMAN

RESPONDENT/ACCUSED & STATE:

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1. RAGHAVAN NAMBIAR,S/O.NARAYANAN NAMBIAR,
KAYARALAM AMSOM,KANDAKKAL DESOM,
(P.O)KANDAKAL,KANNUR DISTRICT.

2. CHALANGADAN GOPALAN,S/O.RAMAN,KANDAKAL
PADINHARA PARAMBIL, (POST),KANDAKAL,
KANNUR DISTRICT.

3. K.VINOD,AGED 24 YEARS,DRIVER,
S/O.GOPALAN,KANDAKAL PADINHARE PARAMBA,
(P.O)KANDAKAL,KANNUR DISTRICT.

4. K.PRAMOD,AGED 22 YEARS,SON OF GOPLAN,
MASON,KANDAKAL,PADINHARA PARAMBA, P.O.
KANDAKAL,KANNUR DISTRICT.

5. STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI.V.RAMKUMAR NAMBIAR - R1 TO R4
PUBLIC PROSECUTOR SRI. M.S.BREEZ - R5

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. APPEAL NO.661 OF 2002

Dated this the 13th day of April, 2007

JUDGMENT

This appeal is filed against the order passed in C.C.No.254 of 1999 on the file of the Judicial First Class Magistrate's Court-II, Kannur. By the impugned order, the court below acquitted the accused - respondents 1 to 4 stating that the appellant failed to prove the case against the accused.

2. The case of the appellant - complainant before the court below was that the accused committed offences punishable under Sections 447 and 427 read with Section 34 I.P.C. According to the appellant, respondents 1 to 4 trespassed into his property armed with weapons like spades, pick axes etc. and demolished a portion of the road and made it unworthy for vehicles to enter into his house. His further case was that when he rushed to the spot to prevent the destruction, the accused threatened to do away with him. The appellant then preferred a written complaint before the police on 5.1.1999 and since the police did not take up the matter seriously, he filed the complaint before the court below. To

prove the case against the appellant, the appellant and three other witnesses were examined as PWs.1 to 4 and Exts.P1 to P2(a) were produced. On the side of the defence, DW.1 was examined and Exts.D1 to D2(a) were produced. On closure of the complainant's evidence, the accused were questioned under Section 313 Cr.P.C. Denying the allegations, the accused stated that the case was in relation to a property dispute and that a civil suit was pending in relation to the said dispute. After considering the entire evidence, the court below acquitted the accused.

3. The appeal was admitted by this Court and notice was sent to respondents 1 to 4. When the appeal came up for hearing, it was submitted that the matter was likely to be settled out of Court and that the parties were willing for a compromise. Hence, the case was adjourned for that purpose. While so, the appellant - complainant sent a letter to the Registrar of this Court stating that the matter has been settled out of Court. But that fact was not admitted before this Court by the learned counsel appearing for respondents 1 to 4. The letter dated 26.8.2006 is now produced before this Court. Considering the facts and circumstances of the case, this Court is of the view that the appeal can be dismissed as withdrawn.

The Crl. Appeal is accordingly dismissed as withdrawn.

(K.THANKAPPAN, JUDGE)

sp/

K.THANKAPPAN, J.

CRL.APPEAL NO.661/2002

JUDGMENT

13TH APRIL, 2007